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Jurgen Boss

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WOOD, PHILLIPS, KATZ, CLARK & MORTIMER
500 W. MADISON STREET
SUITE 3800
CHICAGO, IL 60661

EXAMINER

WANG, JACK K

ART UNIT

PAPER NUMBER

2612

MAIL DATE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/550,467	Applicant(s) BOSS, JURGEN	
	Examiner JACK WANG	Art Unit 2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-5 and 7-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-5, 7-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Status

1. Claims 1 and 6 cancelled.
2. Claims 2-5 amended.
3. Claims 7-11 added.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 2-5, and 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schubert et al. (US Patent # 6,894,610 B2).

Consider claim 7, Schubert et al. clearly shown and disclose a warning system for people working in hazardous conditions, the warning system comprising: a control unit (central monitoring unit) (1, Fig. 1) with a motion detector (5, Fig. 1), an alarm transmitter (communication module) (16, Fig. 1) and a display (2 or 3, Fig. 1), wherein the warning system further comprises a receiver (inherent in the communication module) (16, Fig. 1), the control unit (central monitoring unit) (1, Fig. 1) configured to operate selectively as: a) a standalone base warning unit (Column 2 lines 15-20); b) via a radio connection with at least one of: i) a radio pressure gauge for a compressed air breathing apparatus; ii) a vital function radio monitor; and iii) a radio measuring device for detecting gas and temperature conditions; and c) via a physical link connection with at least one of i) a radio data transmitter; and ii) a walkie-talkie.) except a

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memory for recording incidents. Although Schubert et al. does not specifically disclose the claimed memory for recording incidents. He does disclose a microcomputer (7, Fig. 1) which contained a memory within the device along with camera (14, Fig. 1) which does capable for recording incidents, it would have been obvious to one of ordinary skill in the art at time of the invention to use well know memory device embedded in the microcomputer (7, Fig. 1) for recording the incidents, which the selection memory embedded in various device is a design choice for the particular application.

Consider claim 2, Schubert et al. clearly shown and disclose the warning system, characterized in that wherein the radio pressure gauge is a pressure sensor (15, Fig. 1) with a short-distance transmitter (communication module) (16, Fig. 1) connected to a compressed-air cylinder (Column 3 lines 8-26).

Consider claim 3, Schubert et al. clearly shown and discloses the warning system, characterized in that wherein the vital function radio monitor includes at least a vital sensor (Column 1 line 50) combined with a short-distance transmitter (communication module) (11, Fig.1) for collecting a user's vital data.

Consider claim 4, Schubert et al. clearly shown and discloses the warning system, characterized in that wherein the radio measuring device includes a gas or temperature sensor (15, Fig. 1) coupled with a short-distance transmitter (communication module) (11, Fig. 1) (Column 3 lines 8-26).

Consider claim 5, Schubert et al. clearly shown and discloses the warning system, characterized in that wherein the control unit (monitoring unit) (1, Fig. 1) is configured to allow

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coupling of a camera (14, Fig. 1) and/or thermal image camera can be coupled with the control unit (Column 3 lines 34-44).

Consider claim 8, Schubert et al. clearly shown and disclose the warning system wherein the control unit (monitoring unit) (1, Fig. 1) is configured to operate via a radio connection with each of a radio pressure gauge for a compressed air breathing apparatus, a vital function radio monitor and a radio measuring device for detecting gas and temperature conditions (Column 4 lines 22-34 and Column 1 lines 40-45).

Consider claims 9 and 10, Schubert et al. clearly shown and disclose the warning system wherein the control unit is configured to operate via a physical link (fiber optics) (Column 4 lines 34-35) connection with each of a radio data transmitter (telemetric module 17) except a walkie-talkie. Although Schubert et al. does not specifically disclose the walkie-talkie, he does disclose a communication module (16, Fig. 1) in the helmet/mask (Column 3 lines 38-39) for transfer the information. The walkie-talkie is just a device selection among the communication protocol, such selection is a design choice for the particular application.

Consider claim 11, Schubert et al. clearly shown and disclose a warning system for people working in hazardous conditions, the warning system comprising: a control unit (monitoring unit) (1, Fig. 1) with a motion detector (5, Fig. 1), an alarm transmitter (4, Fig. 1) and a display (2 or 3, Fig. 1), wherein the warning system further comprises a receiver (inherent in the communication module) (16, Fig. 1), the control unit configured to operate selectively as: a) a standalone base warning unit; or b) via a radio connection with at least one of: i) a radio pressure gauge for a compressed air breathing apparatus; ii) a vital function radio monitor; and iii) a radio measuring device for detecting gas and temperature conditions (Column 1 lines 36-

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59), except a memory for recording incidents integrated into the control unit. Although Schubert et al. does not specifically disclose the claimed memory for recording incidents. He does disclose a microcomputer (7, Fig. 1) which contained a memory within the device along with camera (14, Fig. 1) which does capable for recording incidents, it would have been obvious to one of ordinary skill in the art at time of the invention to use well know memory device embedded in the microcomputer (7, Fig. 1) for recording the incidents, which the selection memory embedded in various device is a design choice for the particular application.

Response to Arguments

6. Applicant's arguments, see applicant remark filed 5/22/2008, with respect to drawing objection and claim rejection under 35 U.S.C. § 112 have been fully considered and are persuasive. The objection of drawing and rejection of claim 3 has been withdrawn.

7. Applicant's arguments filed on 5/22/2008 have been fully considered but they are not persuasive with respect to claim rejection under U.S.C. § 103.

8. With respect to claim 7, Applicant argues the prior art presented by Schubert is commonly assigned with this application and relates to a structure that is significantly different than what is recited, and Schubert communicates via a bus enclosed within the clothing of a user. Schubert does not teach or make obvious a direct radio connection between a control unit and other devices such as a measuring device and compressed-air breathing apparatus. Furthermore, Schubert does not disclose a memory for recording incidents for a vital function radio monitor, as set forth in claim 7. The examiner respectfully disagrees. As described in (Column 3 lines 8-26) Schubert disclosed all of structure limitation present in applicant's invention except the memory for recording incidents. Although Schubert did not specifically disclose the memory in

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his invention, he does disclose the micro-computer (7, Fig. 1), which it is well known in the art that micro-computer inherently containing the memory within the device. Furthermore, Schubert has discloses the various interconnected electronic warning, monitoring, control and information devices, which controls the measuring device and compressed-air breathing apparatus (Column 1 lines 29-59). In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

9. With respect to claim 8, applicant recites that the control unit is configured to operate via a radio connection with each of a radio pressure gauge for a compressed air breathing apparatus, a vital function radio monitor, and a radio measuring device for detecting gas and temperature conditions. Since Schubert does not disclose a corresponding radio connection, the requirement for radio connection to three separate devices more clearly distinguishes over Schubert. The examiner respectfully disagrees. As describe in the (Column 4 lines 23-35) Schubert discloses a monitoring device connecterd to a compressed air breathing apparatus with a microcomputer, and the monitoring, communication and control units are connected selectively and exchangeably, galvanically with a central power supply or galvanically isolated with a separate power supply via optocouplers, fiber optics or a high frequency radio connection.

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10. With respect to claim 9, applicant stated that the device requires the physical link connection with each of a radio data transmitter and a walkie-talkie. The examiner has fully considered and analyzed with the reason for rejection set forth above in the claims rejection.

11. With respect to claim 10, applicant stated that with dependency on claim 8 to incorporate the radio and link connection capabilities with all components. The examiner has fully considered and analyzed with the reason for rejection set forth above in the claims rejection.

12. With respect to claim 11, applicant stated that claim 11 corresponds to claim 7, with the absence of a requirement of the ability to incorporate a physical link connection between the control unit and a radio data transmitter or walkie-talkie. The examiner has fully considered and analyzed with the reason for rejection set forth above in the claims rejection.

13. With respect to claim 2-5, applicant stated each depends from claim 7 and recites further significant limitations to further distinguish over Schubert. The examiner has fully considered and analyzed with the reason for rejection set forth above in the claims rejection.

Conclusion

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JACK WANG whose telephone number is (571)272-1938. The examiner can normally be reached on M-F 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffery Hofsass can be reached on 571-272-2981. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JKW/

/Jeff Hofsass/

Supervisory Patent Examiner, Art Unit 2612